

**In the Claims:**

Claim 1 (Currently amended). A[[n]] positioning apparatus ~~for moving at least a portion of a tissue, the tissue having two tissue sections, the apparatus~~ comprising:

an elongate body having a ~~non-expandable portion and an~~ magnetically manipulatable operable distal end;

[[a]] first ~~tissue~~ and second engaging members at or near the distal end, ~~the first engaging member~~ and being configured to ~~contact first tissue section; a second tissue engaging member at or near the distal end,~~ be[[ing]] movable relative to the ~~first tissue~~ second engaging member, ~~and configured to contact a second tissue section;~~

a magnetizable material being disposed in or on at least a portion of the first or second ~~tissue~~ engaging member; and

an electromagnet disposed in or on at least the other ~~tissue~~ engaging member,

wherein ~~generation of a magnetic field moves~~ the first or second tissue engaging member is configured to be attracted or repelled relative to the ~~first tissue~~ other engaging member by a magnetic field alone.

Claim 2 (Currently Amended). The apparatus of claim 1, wherein the magnetizable material [[is]] includes a permanent magnet.

Claim 3 (Currently Amended). The apparatus of claim 1, wherein the ~~first and second tissue engaging members~~ magnetizable material includes a second electromagnet[[s]].

Claim 4 (Currently Amended). The apparatus of claim [[54]] 1, wherein the strength or polarity of the electromagnet is adjustable ~~and the medical implant is positionable through at least a portion of the tissue.~~

Claim 5 (Currently Amended). The apparatus of claim [[1]] 4, wherein ~~the electromagnet creates a magnetic field having a polarity and~~ said polarity is reversible.

Claim 6 (Currently Amended). The apparatus of claim 1, further comprising a controller, ~~the controller being configured to control~~ turn on, turn off, or adjust the electromagnet.

Claim 7 (Currently Amended). The apparatus of claim [[54]] 1, wherein the electromagnet is configured to selectively adjust the position of ~~[[the]] a tissue section or an medical implant with respect to at least a portion the tissue~~ by changing the magnetic field.

Claims 8-16 (Cancelled).

Claim 17 (Currently Amended). The apparatus assembly of claim 54, further comprising a suture ~~attached to~~ configured to connect with the ~~medical~~ implant.

Claim 18 (Cancelled).

Claim 19 (Currently Amended). The apparatus assembly of claim 54, wherein the ~~medical~~ implant ~~[[is]]~~ includes a needle.

Claims 20-23 (Cancelled).

Claim 24 (Currently Amended). The apparatus of claim 1, wherein the ~~electromagnet first or second engaging member~~ is configured to be positionable adjacent to ~~[[the]] a tissue section~~.

Claim 25-31 (Cancelled).

Claim 32 (Currently Amended). The apparatus according to claim 1, wherein said electromagnet is configured to create~~[[s]]~~ a magnetic field that attracts or repels said magnetizable material ~~and a biasing member tends to spread said first tissue engaging member from said second tissue engaging member~~.

Claim 33 (Currently Amended). The apparatus according to claim 1, wherein said magnetizable material creates a second magnetic field ~~and said electromagnet creates a magnetic field that repels said magnetic field of said magnetizable material.~~

Claim 34 (Currently Amended). The apparatus according to claim [[33]] 1, further comprising a biasing member ~~tending~~ configured to ~~compress~~ urge said first tissue engaging member toward said second tissue engaging member.

Claim 35 (Currently Amended). The apparatus according to claim 54, wherein said electromagnet ~~creates a magnetic field that attracts said magnetizable material~~ is configured to urge the ~~medical~~ implant into at least a portion of ~~the~~ a tissue section ~~by attracting said first tissue engaging member to said second tissue engaging member and includes a means for mechanically urging said first tissue engaging member toward said second tissue engaging member.~~

Claim 36 (Currently Amended). The apparatus according to claim [[35]] 1, further comprising a biasing member ~~tending~~ configured to spread said first ~~tissue~~ engaging member from said second ~~tissue~~ engaging member.

Claim 37 (Currently Amended). The apparatus according to claim 40, wherein said magnetizable material [[is]] includes a permanent magnet.

Claim 38 (Previously Presented). The apparatus according to claim 1, wherein said magnetizable material includes iron.

Claim 39 (Currently Amended). The apparatus according to claim 40, wherein said magnetizable material ~~is an electromagnet~~ includes iron.

Claim 40 (Currently Amended). A[[n]] positioning apparatus ~~for positioning a medical implant or a tissue of a patient, the apparatus~~ comprising:

an elongate body having a ~~non-expandable~~ non-mechanically actuated portion; ~~and~~

a magnetically ~~manipulatable~~ operable distal end including a first ~~tissue~~ engaging member, a second ~~tissue~~ engaging member, and a pivot, ~~the distal end being configured to grasp at least a portion of the medical implant or tissue;~~

the first or second ~~tissue~~ engaging member being connected to the pivot and configured to be movable relative to the other of the first or second ~~tissue~~ engaging member;

a magnetizable material being disposed in or on the first or second ~~tissue~~ engaging member; and

a magnetic field generator disposed in or on the other ~~tissue~~ engaging member,

wherein ~~generation of~~ a magnetic field moves the first engaging member relative to the second ~~tissue engaging member relative to the first tissue engaging member to position at least a portion of the medical implant or tissue.~~

Claim 41 (Currently Amended). The apparatus according to claim 40, wherein said magnetic field generator is configured to attract[[s]] said magnetizable material to ~~penetrate the medical~~ urge an implant into ~~the a~~ a tissue section when actuated.

Claim 42 (Currently Amended). The apparatus according to claim 40, wherein said magnetic field generator is configured to repel[[s]] said magnetizable material to spread said first tissue engaging member and relative to said second ~~tissue~~ engaging member ~~and said first handle and said second handle compress said first tissue engaging member toward said second tissue engaging member to penetrate the medical implant into the tissue when actuated.~~

Claim 43 (Currently Amended). The apparatus according to claim 40, ~~wherein said magnetic field generator attracts said magnetizable material to penetrate the medical implant into the tissue and further comprising~~ a biasing member connected to said first ~~tissue~~ engaging member and said second ~~tissue~~ engaging member to spread urge the first and second ~~tissue~~ engaging members toward or away from each other.

Claim 44 (Currently Amended). The apparatus of claim 1, wherein a location or direction of said magnetic field is ~~alterable to provide directional control of a medical implant as it is driven through the tissue~~ adjustable.

Claim 45 (Canceled).

Claim 46 (Currently Amended). The apparatus according to claim 40, wherein a location or direction of said the magnetic field is ~~alterable to provide directional control of the medical implant as it is driven through the tissue~~ adjustable.

Claim 47 (Currently Amended). The apparatus of claim 1, wherein the first and second ~~tissue~~ engaging members include electromagnets.

Claim 48 (Currently Amended). The apparatus of claim [[47]] 1, wherein said electromagnet[[s]] ~~are is configured to be~~ selectively activatable, ~~and~~ deactivatable, or adjustable ~~to move a medical implant back and forth through the tissue~~.

Claim 49 (Currently Amended). The apparatus according to claim 40, wherein the magnetic field generator ~~and the magnetizable material are~~ includes an electromagnet[[s]].

Claim 50 (Currently Amended). The apparatus according to claim 49, wherein said electromagnet[[s]] ~~are is configured to be~~ selectively activatable, ~~and~~ deactivatable, or adjustable ~~to move the medical implant back and forth through the tissue~~.

Claim 51-53 (Cancelled).

Claim 54 (Currently Amended). ~~An apparatus assembly, comprising: the~~ The apparatus according to claim 1; ~~and a medical~~ further comprising an implant being releasably connected to at least the first or second ~~tissue~~ engaging member.

Claim 55 (Currently Amended). The apparatus according to claim 1, further comprising a holder connected to said first ~~tissue~~ engaging member for releasably holding ~~a medical~~ the implant.

Claim 56 (Currently Amended). ~~An apparatus assembly, comprising: the~~ The apparatus according to claim 40; ~~and a medical, further comprising the~~ implant being releasably connected to at least the first or second ~~tissue~~ engaging member.

Claim 57 (Currently Amended). The apparatus according to claim 40, further comprising a holder connected to said first ~~tissue~~ engaging member for releasably holding the ~~medical~~ implant.

Claim 58 (Currently Amended). The apparatus according to claim 54, wherein the ~~medical~~ implant includes a medical implement.

Claim 59 (Currently Amended). The apparatus according the claim 40, wherein the ~~medical~~ implant includes a medical implement.

Claim 60 (Currently Amended). The apparatus according to claim 54, wherein the ~~medical~~ implant includes a magnetic component.

Claim 61 (Currently Amended). The apparatus according to claim 40, wherein the ~~medical~~ implant includes a magnetic component.

Claim 62 (New). A positioning apparatus comprising:

an elongate body having a magnetically operable distal end including first and second portions, the first portion being configured to be attracted and repelled by a magnetic field;

the first or second portion including a magnetizable material; and

the other of the first or second portion including an electromagnet,

wherein the first portion is configured to be positioned by a change in a polarity or strength of the magnetic field.

Claim 63 (New). The apparatus of claim 62, wherein the magnetizable material includes a permanent magnet or a second electromagnet.

Claim 64 (New). The apparatus of claim 62, wherein the first and second portions include electromagnets.

Claim 65 (New). The apparatus of claim 62, wherein a location or direction of the magnetic field is adjustable.

Claim 66 (New). The apparatus of claim 62, wherein the strength or polarity of the electromagnet is adjustable by changing a current to the electromagnet.

Claim 67 (New). The apparatus of claim 62, wherein the polarity is reversible.

Claim 68 (New). The apparatus of claim 62, further comprising a controller configured to turn on, turn off, or adjust the electromagnet.

Claim 69 (New). The apparatus of claim 62, wherein the first or section portion is configured to adjust the position of a tissue section or an implant.

Claim 70 (New). The apparatus of claim 62, wherein the first and second portions include electromagnets.

Claim 71 (New). The apparatus of claim 62, wherein said electromagnet is configured to be selectively activatable, deactivatable, or adjustable.

Claim 72 (New). The apparatus according to claim 62, further comprising an implant being releasably connected to at least the first or second portion.

Claim 73 (New). The apparatus according to claim 62, wherein the implant includes a magnetic component.